

MONTANA LEGISLATIVE HISTORY

Chapter 146 1999

Bill H 227 S _____

Original bill & history ☒ c

H. Committee on Local Gov't.

Hearing Date(s) _____ c

1/31 ☒ c

_____ c

_____ c

Date Out

1/31 ☒ c

S. Committee on Local Gov't.

Hearing Date(s) _____ c

3/5 ☒ c

_____ c

_____ c

out 3/5 ☒

Did this bill originate in an interim committee? _____ Yes ☒ No

Committee _____

Report _____

HOUSE BILL NO. 227

INTRODUCED BY LARSON, PIPINICH, BERGSAGEL, KIMBERLEY, DAVIS,
FORRESTER, G. BECK, SOUTHWORTH, J. JOHNSON, GOULD, TOOLE,
KILPATRICK, SCHYE

IN THE HOUSE

JANUARY 17, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

FIRST READING.

FEBRUARY 1, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 2, 1991 PRINTING REPORT.

FEBRUARY 4, 1991 SECOND READING, DO PASS.

FEBRUARY 5, 1991 ENGROSSING REPORT.

FEBRUARY 6, 1991 THIRD READING, PASSED.
AYES, 98; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 7, 1991 FIRST READING.

INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

MARCH 6, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 8, 1991 SECOND READING, CONCURRED IN.

MARCH 9, 1991

THIRD READING, CONCURRED IN.
AYES, 46; NOES, 2.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *227*
2 INTRODUCED BY *Sen. Bill Ripstein, Bernice L. Hensley*
3 *Doris Jonette, I. Bud, J. H. Johnson, Rick*
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROOF OF
5 ELIGIBILITY TO VOTE FOR RURAL FIRE DISTRICT TRUSTEES, AND
6 AMENDING SECTION 7-33-2106, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 **Section 1.** Section 7-33-2106, MCA, is amended to read:
10 "7-33-2106. Details relating to board of trustees of
11 fire district. (1) The five trustees initially appointed by
12 the county commissioners shall hold office until their
13 successors are elected or appointed and qualified as
14 hereinafter provided.

15 (2) Trustees shall be elected as provided in subsection
16 (3) of this section, 13-1-104(3), and 13-1-401 or appointed
17 as provided in subsection (4) of this section. The term of
18 office shall be 3 years beginning at the first district
19 meeting following their election or appointment and
20 continuing until their successors are elected or appointed
21 and qualified. Appointments to fill vacancies shall be made
22 by the county governing body and appointees shall hold
23 office until the next regular election. All electors, as
24 defined in Title 13, who reside in the district are eligible
25 to vote in the election, including any holder of title to

1 lands within the district who presents a proof of interest
2 ~~in such land~~ payment of taxes on the lands at the polling
3 place, regardless of whether he is registered to vote.
4 (3) Candidates for the office of trustee of the fire
5 district to be filled by election may be nominated by
6 petition filed with the election administrator or deputy
7 election administrator at least 75 days before the election
8 day and signed by at least five electors of the district.
9 (4) If no nominations are made for one or more trustee
10 offices, the county governing body shall appoint one or more
11 trustees as necessary to fill those offices.
12 (5) The trustees shall organize by choosing a chairman
13 and appointing one member to act as secretary."

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT, CHAIR, on January 31, 1991, at
3:00 P.M.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Jim Rice (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Members Absent: REP. D. BROWN

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB 227

Presentation and Opening Statement by Sponsor:

REP. LARSON, House District 65, Seeley Lake stated HB 227
requires a person to be a resident of a fire district and a
qualified elector in order to vote in a fire district election.

Proponents' Testimony:

James Lofftus, Mt. Fire Districts Association, stated HB 227 was
introduced to clarify how people are eligible to vote in fire
district elections. Voters in a fire district election should
show proof of paying taxes or be a registered district voter.

Shelley Cheney, Gallatin County Clerk and Recorder, supported the bill and submitted an amendment. This would make sure the people who are not registered voters within the district, but who are land owners, are registered to vote. EXHIBIT 1

OPPONENTS: None

Questions From Committee Members:

REP. CROMLEY asked REP. LARSON if he had an objection to the proposed amendment. REP. LARSON said no.

REP. SIMPKINS asked REP. LARSON if a person owns property within a district and if a person is registered, are both allowed to vote in a fire district election. REP. LARSON stated the voter had to be a qualified elector and an owner of property in order to vote.

Closing by Sponsor:

REP. LARSON urged passage of HB 227.

HEARING ON HB 214

Presentation and Opening Statement by Sponsor:

REP. CONNELLY, House District 8, Kalispell, stated HB 214 creates limits on the length of time a citizen member may serve on the city, city-county, or county planning boards and also requires that a public hearing for zoning regulations be sent to all property owners within a proposed zoning district. Members have been serving for as long as 16 years and don't want to change or listen to the people involved with the districts. The added cost to the county will be postage. People who live out of state, but own land, should be notified of the hearings.

Proponents' Testimony: None

Opponents' Testimony:

Ray Harbin, County Commissioner, Lake County, stated local governments have a difficult time attracting members. The planning board is operated on a two year basis, appointed. They are urged to stay on as long as possible and the County Commissioners express the right to reappoint them every two years. Mailing is also a concern. In order to insure everyone has proper notice, a registered letter must be sent to all taxpayers. Mailing notices would take half the county planning budget. These issues can be handled on the county or local level.

Sharon Stratton, Flathead County Commissioner, said these issues should be handled at the local level. Limiting time to serve by statute is not a good idea as it takes time to implement planning

Proponents' Testimony:

Gorden Morris, Mt. Association of Counties, supported HB 65 but asked that Sections 3 and 4 be deleted.

Ray Harbin, Lake County Commissioner, stated expanding the vehicle registration time from 10 to 12 months would elevate the long lines at the Treasurer's Office.

Bud Schoen, Dept. of Justice, supported the bill with the proposed amendments.

Opponents' Testimony: NoneClosing by Sponsor:

REP. WHALEN said to strike Subsections 1 and 2 under New Section 3. Amendments were submitted EXHIBIT 2

EXECUTIVE ACTION ON HB 227

Motion: REP. CROMLEY moved HB 227 Do Pass.

Discussion: REP. J. RICE asked if there were amendments. Bart Campbell said yes and explained them.

REP. BARNETT stated a person had to be a registered voter and if that section is deleted then the language says they do not have to be registered. The amendment needs more clarification.

REP. NELSON said Page 1, Line 23 does clarify that portion of the amendment. Bart Campbell agreed. All electors, which means a registered voter in the state, are eligible to vote; in addition, an elector who holds title to land in the district and can show proof of tax payment would also be allowed to vote.

REP. BROOKE stated she was a registered voter in Missoula County and owned land in Lake County. She couldn't go to Lake County to vote in a fire district election.

REP. DARKO stated if the bill is amended the way that is proposed, there will be no bill.

Motion: REP. CROMLEY withdrew his Do Pass motion.

REP. BARNETT asked Bart Campbell if a person has to be (1) a registered voter in the district and (2) a taxpayer on the property in the district, why is the payment of taxes on the land the part we are trying to amend. Mr. Campbell stated they are talking about two different sets of people; (1) all electors who reside in the district and (2) any elector who holds title to land in the district and can show proof of paying taxes in the district, are eligible to vote.

REP. J. RICE stated if the committee struck Line 3 of Page 2, they would accomplish what the sponsor intended. If they want to change the present law, end it at after election on Page 1.

REP. BARNETT agreed with REP. DARKO in that there would be no bill if amended. REP. SIMPKINS agreed with Bart Campbell in that they are dealing with two different classes of people. REP. CROMLEY suggested removing the word "including" on Line 25 and insert the word "and" would clarify the bill. Bart Campbell agreed with REP. CROMLEY and suggested they put back "regardless of whether he is registered to vote" because you are defining the person more. It really depends upon what the committee is trying to do with the bill.

Motion: REP. J. RICE moved to adopt amendments as suggested. The motion carried unanimously. EXHIBIT 3

Motion/Vote: REP. STICKNEY MOVED HB 227 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HB 122

Motion: REP. STICKNEY moved HB 122 Do Pass.

Discussion:

Bart Campbell explained the amendments. EXHIBIT 4

REP. WALLIN asked Bart Campbell if the bill applied only to state assumed counties. Mr. Campbell stated it would cover all counties in the state. The only difference being the non-assumed counties would be using their own welfare funds. REP. WALLIN asked what would happen if they ran out of funds. Mr. Campbell asked REP. SIMPKINS to answer. REP. SIMPKINS stated in lieu of I-105, state assumed counties have no problem; but non-assumed counties cannot raise their mills. If funds are depleted, the counties must use the general fund.

REP. McCAFFREE stated the House of Representatives has already passed bills mandating additional costs on the local governments. This would also cost the taxpayers more money.

REP. GOULD asked if a revised fiscal note has been presented since the amendments were made. None were reported. Bart Campbell explained that the fiscal impact statement would go to the assumed counties only because that is the only place where the state monies are going out.

Motion/Vote: REP. STICKNEY withdrew her motions. NO ACTION WAS TAKEN ON HB 122.

HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE 1-31-91

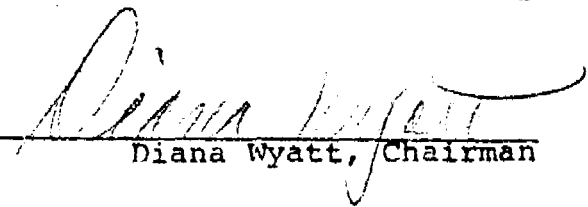
NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown		X	
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

HOUSE STANDING COMMITTEE REPORT

February 1, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 227 (first reading copy -- white) do pass as amended

Signed: 

Diana Wyatt, Chairman

And, that such amendments read:

1. Page 1, line 23.

Following: "election."

Strike: "All electors"

Insert: "An elector"

2. Page 1, line 24.

Following: "who"

Strike: "reside"

Insert: "resides"

3. Page 1, lines 24 and 25.

Following: "district" on line 24

Strike: "are" through "including" on line 25

Insert: "or"

4. Page 2, line 3.

Following: "place,"

Strike: ", regardless of whether he is registered to vote"

Insert: "is eligible to vote in the election"

Local Gown

227

1-31-91

Larson

PLEASE PRINT

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

that all types of funds were for self-insured programs.

Closing by Sponsor: Representative Hansen closed by adding that she would like the committee to Concur in HB-123. It is necessary to keep the self-insured programs operational, and allow them to negotiate for better contracts with their health insurance provider.

Senator Thayer asked C. Erickson if "self-insured" needed to be amended into the title? C. Erickson said it couldn't hurt. She said the change would make it consistent, and she would rather error on the conservative side.

HEARING ON HB-227

Presentation and Opening Statement by Sponsor: Representative Don Larson, District 65, said this bill permits a landowner to vote in a fire district if he is paid up on his property taxes. This is done in irrigation districts. This is a fairly simple bill.

Proponents' Testimony: James Lofftus, Montana Fire District Association (MFDA) supported this bill, and stated that this bill simply clarifies the law to allow landowners to vote in fire district elections. This does not change anything else. It just clarifies who can vote in the election.

Bruce Suenram, Missoula Rural Fire District (MRFDA) supported HB-227.

Opponents' Testimony: none

Questions From Committee Members:

Senator Eck said she liked the idea, but she questioned whether this has been declared unconstitutional to allow people to vote on the basis of owning land, and she thought you could only vote when you are registered to vote in the district? C. Erickson said that the original language of the bill said regardless of whether they were registered to vote, so the amendment didn't change that. They simply have to prove some interest in the land in that district. So they did not have to be registered before.

Senator Harding clarified that interest in land in the district was necessary, and so this bill just provides that they can be registered anywhere, but they can vote in the fire district if they have interest in that district. Senator Bengtson said there

are two options: #1 reside in the district, or #2 pay property taxes in that district.

Senator Thayer asked Mr. Lofftus what problems created the need for this bill? Mr. Lofftus said the problem lies with proof of interest. What is proof of interest? A bank with a mortgage could have interest, or a finance company or individual. They could show proof of interest in the land, but they are not buying the land. This bill clarifies what "interest in the land" is defined for the purpose of voting in the district. Burlington Northern could vote in multiple districts because of their proof of interest in the land all over the state. The clarification is from "proof of interest" to "proof of paying taxes on the property". Senator Thayer asked why the same person could not bring in his tax receipt? Mr. Lofftus said he could probably do that, but this clarifies who can vote. Senator Thayer said he understood the intent of the bill and he asked Representative Larson if people would have to prove this at the polling location? Representative Larson questioned this too, but the overall intent of the bill is what is important. A fire district with a large absentee landowner, he wants a say in the election, and he should. His tax receipt would qualify him to do so.

Senator Waterman said there must be some problem that prompted this. She thought the concern would be over when an assessment would be voted on, and this bill only covers voting for trustees. Why would they be concerned about who serves as trustees? Why is BN or an absentee landowner concerned about who serves? Mr. Lofftus said the Clerk and Records Association said they would send the tax roll to the polling locations for verification just like they do for irrigation districts. They had no problem with providing these. In the House, the Clerk and Recorder representative testified in favor of the bill.

Senator Eck asked if fire districts have the same difficulty as other districts with getting people to run for office? Mr. Lofftus said they do have problems with that, and then the county commissioners sometimes have to appoint trustees. Senator Eck asked what authority trustees have? Mr. Lofftus said trustees set the budget, contract for services, etc. Senator Eck said they may set the budget, but who sets the assessment? Mr. Lofftus said the County Commissioners set the assessment based on requests from the Fire District Trustees.

Senator Hammond said one of his questions was answered. The election of trustees can determine whether an assessment will be requested.

Senator Harding said fire districts have different amounts of levies. County Commissioners agree to assess a levy because if the trustees want to put this type of tax on themselves, then go for it. So the County Commissioners aren't bothered if the people request this through their trustees. Mr. Lofftus said fire districts are limited by I-105.

Closing by Sponsor: Representative Larson closed by stating that this bill is a question of taxation without representation. He asked for a do pass on HB-227.

HEARING ON HB-480

Presentation and Opening Statement by Sponsor: Representative Tom Lee, District 49, said this bill is from a wish list by Greg Petesch to clean up laws. As a member of the National Guard, he felt the right to paid leave that the National Guard enjoys should be extended to a town employee. He offered the Attorney General's opinion and a definition of "town" (Exhibit #2).

Proponents' Testimony: none

Opponents' Testimony: none

Questions From Committee Members:

Senator Bengtson asked if a fiscal note was requested?
Representative Lee said there was no fiscal impact.

Senator Beck asked if this bill was restricted to incorporated or unincorporated towns? Representative Lee said this bill is strictly for incorporated towns.

Senator Thayer asked about the definition of municipality in the Exhibit #2, but municipalities are not included in this bill. Representative Lee said they were added to cover any questions about the difference in the language or terminology that relates to the bill. The problem can be attacked two ways: #1 insert the word "municipality, which would include all incorporated towns and cities, or #2. simply add the word "town" to the bill, and the handwritten note on the Exhibit #2 indicates how the code breaks down. Senator Thayer said if "town" is used then you do not need the word "municipality".

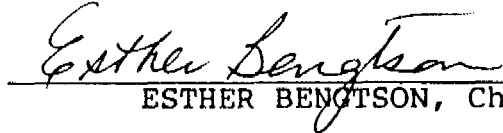
Senator Bengtson asked about unincorporated towns?
Representative Lee said they are not affected by this statute. C. Erickson said unincorporated towns do not have a town government, so they have no employees. They are county employees, so they would be covered. Senator Bengtson questioned how water user associations are paid for furnishing water to towns like Worden, Huntley, or Big Fork. Senator Bengtson conceded that we can't do all things in one bill.

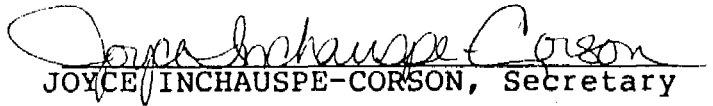
EXECUTIVE ACTION ON HB 227

Motion: Senator Hammond moved to Concur in HB-227. The motion was unanimous, and was recorded as a roll call vote. Senator Hammond will carry HB-227.

ADJOURNMENT

Adjournment At: 3:59 p.m.


ESTHER BENGTSON, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 3-5-91

52 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		ES
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-5-91 Bill No. HB-227 Time 3:55

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond	X	
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: Do Concur in HB-227

Senator Hammond will carry